

**SUBSTITUTE APPEAL BRIEF UNDER 37 C.F.R. § 41.37**

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**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Woei L. Leow et al. Examiner: Wanda M. Negron

Serial No.: 10/736,113 Group Art Unit: 2622

Filed: December 15, 2003 Docket: H0005960.36231

For: SYNCHRONOUS VIDEO AND DATA ANNOTATIONS

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**SUBSTITUTE APPEAL BRIEF UNDER 37 CFR § 41.37**

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Substitute Appeal Brief is presented in support of the Appeal Brief filed January 4, 2008 and the Notice of Appeal to the Board of Patent Appeals and Interferences, filed on November 7, 2007, from the Final Rejection of claims 1, 4-13, 15-27 and 29-37 of the above-identified application, as set forth in the Final Office Action mailed on August 6, 2007.

The Applicant has paid the fees associated with the previous Notice of Appeal and Appeal Brief, and believes that no further fees are due at this time. If the Applicant is mistaken, the Commissioner of Patents and Trademarks is hereby authorized to charge Deposit Account No. 19-0743 for any required amount. The Appellant respectfully requests consideration and reversal of the Examiner's rejections of pending claims.

**1. REAL PARTY IN INTEREST**

The real party in interest of the above-captioned patent application is the assignee,  
HONEYWELL INTERNATIONAL INC.

## **2. RELATED APPEALS AND INTERFERENCES**

There are no other appeals or interferences known to Appellant that will have a bearing on the Board's decision in the present appeal.

### **3. STATUS OF THE CLAIMS**

The present application was filed on December 15, 2003 with claims 1-37. A non-final Office Action was mailed on February 7, 2007. A Final Office Action (hereinafter "the Final Office Action") was mailed on August 6, 2007. Claims 2-3, 14, and 28 have been canceled. Claims 1, 4-13, 15-27, and 29-37 stand twice rejected, remain pending, and are the subject of the present Appeal.

#### **4. STATUS OF AMENDMENTS**

No amendments have been made subsequent to the Final Office Action dated August 6, 2007.

## **5. SUMMARY OF CLAIMED SUBJECT MATTER**

Aspects of the present inventive subject matter include, but are not limited to, synchronous video and data annotations.

### **Independent Claim 1**

An embodiment of the presently claimed subject matter, as recited in independent claim 1, is a surveillance system. The surveillance system includes a camera arranged to output images of a protected area (p. 2, lines 13-16; FIG. 1, Nos. 12, 14), an input device arranged to provide a data annotation (p. 2, lines 16-17; p. 5, line 21 – p. 6, line 12; FIG. 1, No. 22; FIG. 2, No. 32; FIG. 3, No. 42), and a server arranged to synchronously store the images and the data annotation so that the data annotation can be used to search for a segment of the images (p. 2, lines 17-20; p. 5, lines 9-13; p. 6, lines 20-23; FIG. 1, No. 20). The server is arranged to time stamp the data annotation (p. 6, lines 20-23; FIG. 2, No. 34), and the server is arranged to compare the time stamp of the data annotation to an image count when searching for the segment of the images (p. 7, line 19 – p. 8, line 4; p. 11, lines 7-24; FIG. 2, No. 34; FIG. 4, No. 54).

### **Independent Claim 13**

Another embodiment of the presently claimed subject matter, as recited in independent claim 13, includes a method of video surveillance. The method includes storing surveillance video in a memory (p. 2, line 23; FIG. 1, Nos. 12, 20), storing data annotations in the memory, wherein the data annotations are useful in searching for a video segment of the surveillance video of interest (p. 2, line 23 – p. 3, line 2; p. 5, lines 9-13; p. 5, line 21 – p. 6, line 12; FIG. 2, No. 32; FIG. 3, No. 42), and synchronizing the stored data annotations to the corresponding video segments of the stored video so that the data annotations can be used to search for the video segment of interest (p. 3, lines 2-5; p. 5, lines 9-13; p. 6, lines 20-23; FIG. 2, No. 34; FIG. 3, No. 46). The data annotations include a time stamp (p. 6, lines 20-23; FIG. 2, No. 34). The time stamp of the data annotations is compared to an image count when searching for the segment of the images (p. 7, line 19 – p. 8, line 4; p. 11, lines 7-24; FIG. 2, No. 34; FIG. 4, No. 54).

### **Independent Claim 25**

Another embodiment of the presently claimed subject matter, as recited in independent claim 25, is a surveillance method that includes capturing images of a protected area (p. 3, line 8;

FIG. 1, Nos. 12, 20), storing the images in a computer readable memory (p. 3, line 9; p. 5, lines 9-13; FIG. 1, No. 20), storing data annotations in the computer readable memory, wherein the data annotations are searchable using a search criteria (p. 3, lines 10-12; p. 5, lines 9-13; p. 5, line 21 – p. 6, line 12; FIG. 1, No. 20; FIG. 3, No. 46; FIG. 4, No. 54), and storing a link that links the stored data annotations to corresponding image segments of the stored images so that the data annotations can be used to search for an image segment of interest (p. 3, lines 12-15; p. 11, lines 7-24; FIG. 1, No. 1; FIG. 4, No. 54). The data annotations include a time stamp (p. 6, lines 20-23; FIG. 2, No. 34). The time stamp of the data annotations is compared to an image count when searching for the segment of the images (p. 7, line 19 – p. 8, line 4; FIG. 2, No. 34; FIG. 4, No. 34).

This summary does not provide an exhaustive or exclusive view of the present subject matter, and Appellant refers to each of the appended claims and its legal equivalents for a complete statement of the invention.



**6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Claims 1, 4, 10, 13, 15-22, 25-27, and 29-31 were rejected under 35 U.S.C. § 102(b) as being anticipated by Fiore et al. (WO 02/082275 A1).

Claims 5-9, 23, 24, 32-34, 36, and 37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fiore et al. (WO 02/082275 A1) as applied to claims 1-4, 10, 13-22, and 25-31, and further in view of Brown et al. (WO 01/13637 A1).

Claims 11 and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fiore et al. (WO 02/082275 A1) as applied to claims 1-4, 10, 13-22, and 25-31, and further in view of Arazi et al. (U.S. Patent No. 6,330,025).

Claim 35 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Fiore et al. (WO 02/082275 A1) in view of Brown et al. (WO 01/13637 A1), and further in view of Arazi et al. (U.S. Patent No. 6,330,025).

## **7. ARGUMENT**

### ***A) The Applicable Law under 35 U.S.C. §102(b)***

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, "[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP § 2131.

### ***B) The Applicable Law under 35 U.S.C. §103(a)***

A patent may not be obtained for an invention, even though the invention is not identically disclosed or described in a single patent or other publication, if the differences between the subject matter of the invention and the prior art are such that the subject matter as a whole would have been obvious at the time that the invention was made to a person having ordinary skill in the art to which the subject matter of the invention pertains.<sup>1</sup> An obviousness analysis under § 103 is objective. That is, the scope and content of the prior art are determined, the differences between the prior art and the claims at issue are ascertained, and the level of ordinary skill in the pertinent art is resolved. It is against this background that the obviousness or nonobviousness of the subject matter is determined. Other considerations such as commercial success, long felt but unsolved need, and the failure of others might be utilized to shed light on the circumstances surrounding the origin of the subject matter sought to be patented.<sup>2</sup> While the

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<sup>1</sup> 35 U.S.C. § 103(a).

<sup>2</sup> *KSR International Co. v. Teleflex Inc.*, 550 U.S. \_\_\_, p. 2 slip opinion (2007), citing *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 15-17 (1966).

obviousness analysis need not seek out precise teachings directed to the specific subject matter of a claim, the analysis should nevertheless be explicit, including some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness, and not based on mere conclusory statements.<sup>3</sup> An indication of a teaching, suggestion, or motivation in the prior art may be part of this analysis, since there is no necessary inconsistency between the idea underlying the teaching, suggestion, and motivation test and the *Graham* analysis. However, the general principle of the teaching, suggestion, and motivation test should not be transformed into a rigid rule that limits the obviousness inquiry.<sup>4</sup> Rather, the approach to the determination of obviousness or nonobviousness should remain expansive and flexible.<sup>5</sup> And further while there is a need for caution in granting a patent based on a combination of elements found in the prior art,<sup>6</sup> a patent composed of several elements is not proved obvious merely by showing that each of its elements was, independently, known in the prior art. Therefore, it can be important to identify a reason that would have prompted a person of ordinary skill in the art in the relevant field to combine the elements in the way the claimed new invention does.<sup>7</sup>

***C) The Rejection of claims 1, 4, 10, 13-22, and 25-31 under 35 U.S.C. § 102(b) as being anticipated by Fiore et al. (WO 02/082275 A1)***

The claims of the present application recite a server configured to “compare the time stamp of the data annotation to an image count when searching for the segment of the images.” The Final Office Action contends that this limitation is disclosed in Fiore et al. in ¶¶ 54, 57 and in claim 9. The Applicant respectfully disagrees.

Paragraph 54 of Fiore et al. relates only to time stamping data frames and storing the data frames with the time stamp. Paragraph 57 relates to using the stored timestamps in connection with event position indicators. Claim 9 of Fiore et al. simply relates timestamps to a time of an event in an event database. The Applicant respectfully submits that there is no disclosure of comparing a timestamp to an image count.

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<sup>3</sup> *Id.*, p.14, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

<sup>4</sup> *Id.*, p. 15.

<sup>5</sup> *Id.*, p. 11.

<sup>6</sup> *Id.*, p.11.

<sup>7</sup> *Id.*, pp. 14-15.

Beginning on page 7, the Final Office Action contends that “Fiore reasonably suggests comparing a timestamp of information associated with the occurrence of an external event (see paragraph [0054]), i.e. a data annotation, to an image count of a video segment, i.e. time stamps of consecutive data frames (see claim 9).” As pointed out above, paragraph 54 relates only to timestamping data frames. For the sake of argument, claim 9 of Fiore et al. could be read to require a comparison. However, claim 9 of Fiore et al. as written requires any such comparison to be between data frames with timestamps and the time of an event from the event database. The comparison of time stamps on data frames to time stamps of an event are not the same as the recitation in claims 1, 13, and 25 that the time stamp of a data annotation is compared to an image count, and there is no disclosure in Fiore et al. of a comparison between a timestamp of a data annotation and an image count as recited in claim 1 of the present application.

The Final Office Action then goes on to argue that its position is supported by the Applicant’s specification. Specifically, the Final Office Action argues that the claimed “image count” may be reasonably interpreted as a sequential time stamp for each video frame. To support this contention, the Final Office Action contends that the Applicant’s specification discloses that an image count can have the same format as a time stamp. The Final Office Action further argues that the Applicant’s specification suggests that a timestamp corresponding to a data tag may be reasonably interpreted as a video count for the data tag. The Applicant respectfully disagrees.

The fact that the timestamp of the data tag may have the same format as the video count does not mean that the timestamp of the data tag and the video count are one and the same. First and foremost, the timestamp of the data tag represents a time, and the video count a simple count.

Second, a time and a count are not interchangeable, especially in the field of video sensing and detection. For example, if two cameras are monitoring the same area, and one camera operates at X frames per second, and the other operates at Y frames per second (wherein  $X < Y$ ), then a frame from each of the two cameras corresponding to the same real time will have the same timestamp, but because of the different frame rates, the image counts for these two frames will be different. This is particularly the case when different types of sensing devices are

used in a system, such as video cameras, thermal imagers, and IR cameras.<sup>8</sup> Therefore, as this example illustrates, contrary to the contentions in the Final Office Action, the timestamp and video count simply cannot be equated.

Third, the mere fact that two variables have the same format does not mean that the two variables represent the same entity. For example, if one variable represents a number of apples, and another variable represents a number of oranges, then the fact that these two variables may be in the same format does not make apples equal to oranges. Moreover, if the number of apples is represented by a decimal number, and the number of oranges is represented by a hexadecimal number, converting the hexadecimal number of oranges into the same format as the decimal number of apples does not magically change oranges into apples. Similarly, the fact that a timestamp and an image count may be in the same format does not make a timestamp and an image count one and the same.

The Final Office Action cites page 9, lines 9-11 of the Applicant's specification for its contention that the Applicant's specification suggests that a timestamp corresponding to a data tag may reasonably be interpreted as a video count for the data tag. The Applicant once again respectfully disagrees. This portion of the Applicant's specification states that a "display thus includes the formatted returned row(s) and the video count that corresponds to the data tag and that designates the annotated video segment." The Applicant respectfully submits that the fact that a row of video frames may include a video count and a data tag that designates the annotated video segment does not mean, for at least the several reasons given in the previous paragraphs, that a video count and a data tag are one and the same.

Consequently, the Applicant respectfully submits that for at least all the foregoing reasons, the Applicant's specification indeed does not support the position outlined in the Final Office Action.

The Final Office Action concludes on page 8 by arguing that if the Applicant contends that the definition of image count excludes that proposed by the Examiner, then an issue of lack of enablement may be raised because, as put forth in the Final Office Action at least, the Applicant's specification does not reasonably enable a skilled artisan to compare a "time stamp" and an "image count" that are not in the same format. The Applicant respectfully disagrees.

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<sup>8</sup> Applicant's Specification, page 4, lines 21-24.

First, the Applicant intends for the terms “timestamp” and “image count” to have their ordinary and customary meaning to those of skill in the art. The Applicant respectfully submits that the terms should not be imbued with a definition resulting from a strained analysis of the specification, such as put forth in the Final Office Action by calling a timestamp and an image count one and the same even though, as pointed out above, they simply cannot be the same (*e.g.*, when different image sensing devices operate at different numbers of frames per second).

Second, the Applicant’s specification clearly enables a comparison of a timestamp and image count when they are not in the same format. For example, the Applicant’s specification discloses that a link can link the data annotations to corresponding image segments of the stored images.<sup>9</sup> A skilled artisan would know that such a link can link data of both the same format and different formats. Moreover, the Applicant’s specification does not limit the comparison of a timestamp and an image count to a direct comparison of the two entities. Rather, other comparisons are also possible such as a simple determination of at what timestamp does the video data reach a certain image count, and/or at what timestamp is the video data at the 50% mark (which can easily be determined from a current image count and a total image count). Therefore, the Examiner’s interpretation of a comparison is simply too narrow, it is not supported by the Applicant’s specification, and the Applicant’s specification clearly enables a comparison of a timestamp and an image count that are not in the same format.

Consequently, the Applicant respectfully submits that independent claims 1, 13, and 25 are not anticipated by Fiore *et al.*, and further respectfully submits that since claims 4, 10, 13-22, and 25-31 all depend either directly or indirectly on claims 1, 13, or 25, these claims are likewise not anticipated by Fiore *et al.*

***D) The Rejection of claims 5-8, 23, 24, 32-34, 36, and 37 under 35 U.S.C. § 103(a) as being unpatentable over Fiore et al. (WO 02/082275 A1) as applied to claims 1-4, 10, 13-22, and 25-31, and further in view of Brown et al. (WO 01/13637 A1)***

Claims 5-8, 23, 24, 32-34, 36, and 37 all depend either directly or indirectly on one of the independent claims 1, 13, or 25. As such, each of these claims includes the limitations that a time stamp is applied to the data annotation, and that there is a comparison of the time stamp of

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<sup>9</sup> *Id.*, page 3, lines 12-14.

the data annotation to an image count when searching for a segment of the images. As pointed out above in the discussion of the rejection of certain claims under 35 U.S.C. § 102(b), Fiore et al. does not disclose this feature. Brown et al. does not remedy this shortcoming. Therefore, the Applicant respectfully submits that the Final Office Action has failed to establish a *prima facie* case of obviousness, and further respectfully requests the reversal of the rejection of claims 5-8, 23, 24, 32-34, 36, and 37.

***E) The Rejection of claims 11 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Fiore et al. (WO 02/082275 A1) as applied to claims 1-4, 10, 13-22, and 25-31, and further in view of Arazi et al. (US 6,330,025 B1).***

Claims 11 and 12 both depend on independent claim 1. As such, both of these claims include the limitations that a time stamp is applied to the data annotation, and that there is a comparison of the time stamp of the data annotation to an image count when searching for a segment of the images. As pointed out above in the discussion of the rejection of certain claims under 35 U.S.C. § 102(b), Fiore et al. does not disclose this feature. Arazi et al. does not remedy this shortcoming. Therefore, the Applicant respectfully submits that the Final Office Action has failed to establish a *prima facie* case of obviousness, and further respectfully requests the reversal of the rejection of claims 11 and 12.

***F) The Rejection of claim 35 under 35 U.S.C. § 103(a) as being unpatentable over Fiore et al. (WO 02/082275 A1) in view of Brown et al. (WO 01/13637 A1) and further in view of Arazi et al. (US 6,330,025 B1).***

Claim 35 indirectly depends on independent claim 25. As such, claim 35 includes the limitations that a time stamp is applied to the data annotation, and that there is a comparison of the time stamp of the data annotation to an image count when searching for a segment of the images. As pointed out above in the discussion of the rejection of certain claims under 35 U.S.C. § 102(b), Fiore et al. does not disclose this feature. Neither Brown et al. nor Arazi et al. remedies this shortcoming. Therefore, the Applicant respectfully submits that the Final Office Action has failed to establish a *prima facie* case of obviousness, and further respectfully requests the reversal of the rejection of claim 35.

**SUMMARY**

For the reasons outlined above, the pending claims were not properly rejected under 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a). It is respectfully submitted that the art cited does not render the claims either anticipated or obvious, and that the claims are patentable over the cited art. Reversal of the rejection and allowance of the pending claim are respectfully requested.

Respectfully submitted,

Woei Ling Leow, et al.

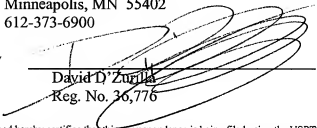
By Their Representatives

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
612-373-6900

Date

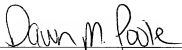
February 14, 2008

By

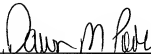
  
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David D. Zurbrugg  
Reg. No. 36,776

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 14th day of February 2008.

Name

  
\_\_\_\_\_  
Dawn M. Poire

Signature

  
\_\_\_\_\_  
Dawn M. Poire



## **8. CLAIMS APPENDIX**

1. A surveillance system comprising:
  - a camera arranged to output images of a protected area;
  - an input device arranged to provide a data annotation; and
  - a server arranged to synchronously store the images and the data annotation so that the data annotation can be used to search for a segment of the images;
  - wherein the server is arranged to time stamp the data annotation; and further
  - wherein the server is arranged to compare the time stamp of the data annotation to an image count when searching for the segment of the images.
4. The surveillance system of claim 1 wherein the server is arranged to cause the segment of the images matching the time stamp to be displayed.
5. The surveillance system of claim 1 wherein the server is arranged to save the data annotation in SQL readable form.
6. The surveillance system of claim 5 wherein the server is arranged to time stamp the data annotation.
7. The surveillance system of claim 5 wherein the server is arranged to receive an SQL search string corresponding to the data annotation to be searched and to search for the data annotation based on the SQL search string.

8. The surveillance system of claim 7 wherein the server is arranged to match the data annotation found as a result of the search to the segment of the images.
9. The surveillance system of claim 6 wherein the server is arranged to match the time stamp of the data annotation to an image count when searching for the segment of the images.
10. The surveillance system of claim 1 wherein the camera comprises a video camera, and wherein the server comprises a video server.
11. The surveillance system of claim 1 wherein the camera comprises an IR camera.
12. The surveillance system of claim 1 wherein the camera comprises a thermal imager.
13. A method comprising:
  - storing surveillance video in a memory;
  - storing data annotations in the memory, wherein the data annotations are useful in searching for a video segment of the surveillance video of interest; and,
  - synchronizing the stored data annotations to the corresponding video segments of the stored video so that the data annotations can be used to search for the video segment of interest;

wherein the data annotations include a time stamp; and further comprising comparing the time stamp of the data annotations to an image count when searching for the segment of the images.

15. The method of claim 13 further comprising searching for a particular data annotation.

16. The method of claim 15 further comprising comparing the time stamp of the particular data annotation to a timing of the video when searching for the video segment of interest.

17. The method of claim 16 further comprising displaying the video segment of interest that matches the time stamp of the particular data annotation.

18. The method of claim 13 further comprising searching the data annotations using a search criteria.

19. The method of claim 18 wherein the synchronizing of the stored data annotations to the corresponding video segments comprises time stamping the data annotations with corresponding time stamps.

20. The method of claim 19 further comprising searching for a particular data annotation.

21. The method of claim 20 wherein the searching includes matching the time stamp of the particular data annotation to a timing of the video.
22. The method of claim 21 further comprising displaying the video segment of interest that matches the time stamp of the particular data annotation.
23. The method of claim 18 wherein the searching of the data comprises using SQL to conduct the search.
24. The method of claim 23 wherein the synchronizing of the stored data annotations to the corresponding video segments of the stored video comprises time stamping the data annotations with corresponding time stamps, wherein the searching comprises matching the time stamp associated with the stored data annotation that corresponds to the search criteria to a timing of the video, and wherein the method further comprises displaying the video segment of interest whose timing matches the time stamp associated with the stored data annotation that corresponds to the search criteria.
25. A surveillance method comprising:
  - capturing images of a protected area;
  - storing the images in a computer readable memory;
  - storing data annotations in the computer readable memory, wherein the data annotations are searchable using a search criteria; and,

storing a link that links the stored data annotations to corresponding image segments of the stored images so that the data annotations can be used to search for an image segment of interest;

wherein the data annotations include a time stamp; and further comprising comparing the time stamp of the data annotations to an image count when searching for the segment of the images.

26. The surveillance method of claim 25 further comprising searching for a particular data annotation using the search criteria.

27. The surveillance method of claim 26 further comprising displaying the image segment of interest linked to the particular data annotation found as a result of the search.

29. The surveillance method of claim 25 further comprising searching for a particular data annotation using the search criteria.

30. The surveillance method of claim 29 further comprising comparing the time stamp corresponding to the particular data annotation found as a result of the search to a timing of the images when searching for the image segment of interest.

31. The surveillance method of claim 30 further comprising displaying the image segment of interest whose timing matches the time stamp of the particular data annotation.

32. The surveillance method of claim 25 wherein the search criteria comprises an SQL search criteria.
33. The surveillance method of claim 32 further comprising:  
searching for a particular data annotation using the SQL search criteria;  
finding the image segment of interest linked to the particular data annotation; and,  
displaying the image segment of interest.
34. The surveillance method of claim 25 wherein the link comprises a data attribute stamp, and wherein the data attribute serves as an index to retrieve video and data segments of the same characteristic inferred by the data attribute.
35. The surveillance method of claim 34 wherein the data attribute comprises temperature.
36. The surveillance method of claim 34 wherein the data attribute comprises luminosity.
37. The surveillance method of claim 34 wherein the data attribute comprises a biometric signature.

## **9. EVIDENCE APPENDIX**

None.

**10. RELATED PROCEEDINGS APPENDIX**

None.